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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,802	07/10/2003	Stephane Sanschagrín	086165-0304763	1913
909	7590	01/22/2004	EXAMINER	
PILLSBURY WINTHROP, LLP			VASUDEVA, AJAY	
P.O. BOX 10500			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102			3617	

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/615,802	Applicant(s) SANSCHAGRIN ET AL.	
	Examiner Ajay Vasudeva	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7/10/2003</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) filed 7/10/2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Only the initialed references of the IDS have been considered. All remaining listings of a patent abstract, or non-patent literature have been crossed out because copies of the same have not been provided.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwai ('076).

Iwai ('076) shows an engine cowling for an outboard engine having a lower motor cover [29], and an upper motor cover [28] with a top cap [55]. The top cap is configured to protect a manual starter handle. The lower edge of the top cap connects to an upper edge of the upper motor cover (see fig. 1). The steps being claimed in the method claims 1-6 are inherent in assembling the device of Iwai ('076) on a standard assembly line.

Examiner's observations: It is noted that claims 1-6, as phrased, do not require that each of the plurality of top caps has a different configuration. Even when an identical top cap is being used on a standard assembly line, a worker would select a cap for attachment from a container filled with a plurality of similarly configured top caps.

It is further noted that the upper motor cover would be capable of accommodating any type of engine – including a two-cylinder engine and a three-cylinder engine – as long as the engines are of compact size. Although the top cap is shown as covering a manual starter, the top cap can remain attached to the cowling even if the device is modified to include an electric starter because presence of such cap will not interfere with the engine operation.

3. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Furukawa.

Furukawa shows an engine cowling for an outboard engine having an upper motor cover [3] with a top cap [4a]. The lower edge of the top cap connects to an upper edge of the upper motor cover (see fig. 6). At least two different configurations of top caps (see col. 5, lines 17-24) are described for alternative combinations with the same upper cover. Such two different types of top caps constitute a family of top caps.

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue.

Inoue shows an engine cowling for an outboard engine having a lower motor cover, and an upper motor cover with a top cap. The top cap is configured to protect a manual starter handle. The lower edge of the top cap connects to an upper edge of the upper motor cover (see fig. 3).

At least two different types of top caps [63 or 87] are described for alternative combinations with the upper cover. Such two different top caps constitute a family of top caps (see fig. 1 and fig. 6). The upper covers used for attachment with the different top caps have identical edges, but have slightly different configurations to accommodate attachment to the different types of top caps.

The upper motor cover is capable of accommodating any type of engine – including a two-cylinder engine and a three-cylinder engine – as long as the engines are of compact size.

Although the top cap is shown as covering a manual starter, the top cap can remain attached to the cowling even if the device is modified to include an electric starter because presence of such cap will not interfere with the engine operation.

Applicant may note that the steps being claimed in the method claims 1-6 are inherent in assembling the device of Inoue on a standard assembly line.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nemoto et al., Allain (col. 4, lines 42-45), Kawamukai et al., Arai et al., Takada et al., Iwai (661), Armstrong, JP (295), JP (496), JP (894), and JP (295) show top caps having different configurations.

Art Unit: 3617

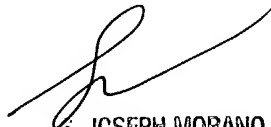
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (703) 306-5992. The examiner can normally be reached on Monday-Friday 1:00 pm--5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ajay Vasudeva
Examiner
Art Unit 3617


AV


S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600